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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,222	12/08/2003	Tong Zhu	08971.0008	2511
22852	7590	04/28/2008		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER YALEW, FIKREMARIAM A	
			ART UNIT 2136	PAPER NUMBER
			MAIL DATE 04/28/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/730,222

Applicant(s)

ZHU, TONG

Examiner

Fikremariam Yalew

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-22, 25-35, 38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-9, 12-22, 25-35, 38 and 39 is/are allowed.
- 6) ☒ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/23/2008 has been entered.
2. Claims 10-11,23-24,36-37 are canceled. Claims 1,14,27 have been amended. Claims 1-9,12-22,25-35 and 38-39 are pending.

Specification Objections

3. Specification is objected to because of the following informalities: In the specification (045) recite the limitation "storage mediums" in lines 2-3. There is insufficient antecedent basis for this limitation in the Specification. Appropriate correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 27 is directed to signal embodied in a carrier wave. The examiner respectfully asserts that the claimed subject matter does not fall within the statutory classes listed in 35 USC 101. Claims 27 is directed a computer readable media/carrier

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wave that includes data signals (See 0039,045). A signal does not fall within one of the statutory classes of 101. Claims 28-35, 38-39 depend on claim 27 and are rejected under to the same rationale.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-9, 12-22, 25-35 and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swallow (US Patent No 6,751,190 B1) in view of Jarosz (US Patent No 7000121 B2).

8. As per claims 1, 14, 27: Swallow teaches a method/system/computer-readable medium for redirecting data in network, the network connecting a first gateway and a second gateway, the first gateway comprising a first node and third node, the second gateway comprising a second node and a fourth node (See col 3 lines 9-48 (i.e., intermediate nodes 104, 106, 108, 120 and endpoints 102, 110)), the method comprising:

transmitting over the network an indication from the first node to the second node that the third node has failed (See col 2 lines 14-25)

reconfiguring a first data, the first data initially configured to be transmitted over the network between the second node and the third node, to be transmitted over the network between the fourth node and the first node after the indication has been

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received by the second node(See col 3 lines 29-40, col 7 line through col 8 line 3 and col 8 lines 31-52).

Swallow does not explicitly teach transmitting over a network an indication from a first node to a second node that **a third node has failed**.

However Jarosz teaches transmitting over a network an indication from a first node to a second node that **a third node has failed** (See col 1 lines 32-40, col 3 lines 52-58 and claim 1).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the method disclosed by Swallow to include an indication that a third node has failed. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so, as suggested by, Swallow (See col 2 lines 14-17) in order to provide a mechanism for quickly repairing a failure in a communication link and has particular application to failed communications links in tunnels established for a realtime data transfer.

9. As per claims 2,15,28: the combination of Swallow and Jarosz teach the method of further comprising configuring the first node and the fourth node to send and receive encrypted data between the first node and the fourth node (See Jarosz col 1 lines 32-45).

10. As per claims 3,16,29: the combination of Swallow and Jarosz teach the method of further comprising configuring the first node and the fourth node to send and receive

the encrypted data between the first node and the fourth node via a first tunnel (See Jarosz col 1 lines 32-45).

11. As per claims 4,17,30: the combination of Swallow and Jarosz teach the method further comprising using a security protocol to encrypt the data (See Jarosz col 4 lines 32-52).

12. As per claim 5,18,31: the combination of Swallow and Jarosz teach the method of wherein the security protocol comprises at least one of Secured Socket Layer (SSL), Secure HTTP (SHTTP), Private Communications Technology (PCT), and IP Security (IPSEC)(See Jarosz col 4 lines 32-59).

13. As per claims 6,19,32: the combination of Swallow and Jarosz teach the method further comprising configuring the third node and the second node to send and receive encrypted data between the third node and the second node (See Jarosz col 1 lines 32-40, col 3 lines 52-58).

14. As per claims 7,20,33: the combination of the combination of Swallow and Jarosz teach the method further comprising configuring the third node and the second node to send and receive the encrypted data between the third node and the second node via a second tunnel (See Jarosz col 5 lines 38-63).

15. As per claims 8,21,34: the combination of Swallow and Jarosz teach the method further comprising using a security protocol to encrypt the data (See Jarosz col 4 lines 32-59).

16. As per claims 9,22,35: the combination of Swallow and Jarosz teach the method wherein the security protocol comprises at least one of Secured Socket Layer (SSL),

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Secure HTTP (SHTTP), Private Communications Technology (PCT), and IP Security (IPSEC)(See Jarosz col 4 lines 32-59).

17. As per claims 12,25,38: the combination of Swallow and Jarosz teach the method of wherein transmitting over the network the indication further comprising using Internet Key Exchange (IKE)(See Jarosz col 4 lines 32-59).

18. As per claims 13,26,39: the combination of Swallow and Jarosz teach the method of wherein the network comprises the Internet (See Swallow col 3 lines 9-48).

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO 892.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fikremariam Yalew whose telephone number is 5712723852. The examiner can normally be reached on 9-5.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 5712738300. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fikremariam Yalew
04/21/2008
FA

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/Nasser G Moazzami/
Supervisory Patent Examiner, Art Unit 2136